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## DECISION MEMO

### *American River Culvert Replacement*

USDA Forest Service, Northern Region  
Nez Perce – Clearwater National Forest  
Red River Ranger District  
Idaho County, Idaho

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#### I. Background

After having reviewed relevant data, analyses, and public comments relating to this proposal, I have decided to approve the removal of two existing corrugated steel culverts on the American River and replacing them with a single 46'-9" span structural-plate open bottom arch culvert on a concrete footing. The new culvert is located on County Road 222 at Mile Marker 0.03. Legal coordinates for the project are T29N, R8E, Sec 33 (Boise Meridian).

(See enclosed map.)

#### Purpose and Need

The 11'x 4' and 8'x 6' CMP culverts on County Road 222 at Mile Marker 0.03 are aquatic organism barriers and have caused some minor erosion downstream. The need for the proposed action is to provide the appropriate size culvert for the 100-year storm and the proper channel improvements to prevent erosion. The need is also to allow for aquatic organism passage including fish at the site.

Providing an appropriately sized structure will minimize risk failure by reducing the risk of restricting the channel with plugging by woody material moving downstream. Minimizing failure risk reduces the risk of unwanted sediment input into streams which can negatively affect aquatic habitats. Long term maintenance costs will also be reduced because debris is not likely to accumulate on the larger structure.

#### Project Design/Environmental Mitigation

The Red River Ranger District of the Nez Perce – Clearwater National Forest, in partnership with the Nez Perce Tribe, will replace the existing culverts. The Nez Perce Tribe will be contacted for coordination, and the project will be funded by the Tribe.

The project is on Bureau of Land Management (hereinafter referred to as "BLM") land and private land for the eastern portion.

The project consists of removing the existing culverts and replacing them with a 46'-9" span by 14' rise by 76' long Steel Structural Plate Arch culvert. Improvements consist of but are not limited to structural excavation, excavation and reshaping of ~104' the channel, placement of

riprap, precast or cast in-place concrete footings, embankment and excavation of roadway approaches, and road surfacing. Asphalt surfacing will be used.

The project will meet current Forest Plan standards for passage of 100 year flow events and allow for aquatic organism passage. The crossing will be designed for fish passage, since there are fish present.

Approximately 130' of County Road 222 will need to be built up with embankment material and covered with a layer of base course aggregate and asphalt surfacing to improve roadside drainage and mitigate sediment runoff.

Equipment to be used includes an excavator, grader, dump trucks and compaction roller. The project does not change access restrictions but there will be the need for a temporary bypass to be constructed immediately downstream of the proposed culvert site near the confluence of the Red River and American River.

The project will start in the spring/summer of 2014 and should last a maximum of approximately 10 weeks. Potential problems include shallow bedrock elevations in the proposed culvert location. The North Idaho Lands Zone is being coordinated with to handle the Right-of-way needs for the BLM and private land owners.

(See enclosed plans.)

## **II. Rationale for Decision and Reasons for Categorically Excluding the Decision**

### **A. Category of Exclusion and Rationale for Using the Category**

Based on information in this document and the project record, I have determined this project is not significant in either context or intensity (40 CFR 1508.27), that no extraordinary circumstances affecting resource conditions exist (36 CFR 220.6), that this project may be categorically excluded from documentation in an EA or EIS, and that it meets all the criteria outlined in 36 CFR 220.6(e)(7): *Aquatic habitat structure* repair.

The rationale for my decision is based on: 1) the proposed action fully meeting the criteria for Categorical Exclusions, 2) the proposed action meeting the purpose and need, 3) the findings related to extraordinary circumstances, discussed below, 4) the project's consistency with laws and regulations, 5) the on-the-ground review and discussion with District resource specialists, and 6) my review of the Biological Assessments (BA), Biological Evaluations (BE), and specialists' reports.

### **B. Finding of the Absence of Extraordinary Circumstances to Resource Conditions**

#### **1. Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat or Forest Service sensitive species:**

The Interdisciplinary Team (ID Team) Botanist, Wildlife and Fish biologists determined the proposed actions will have no effect or impact on listed or sensitive plant, wildlife or fish species or habitat, and suitable habitat will not be altered, with the following notations:

**Forest Botanist:** The only species of concern to potentially have suitable habitat in the project area would be Payson's milkvetch (*Astragalus paysonii*) and Idaho barren strawberry (*Waldsteinia idahoensis*). Both occur on roadsides and dispersed sites among other habitats in the Elk City vicinity. The disturbance might harm existing plants if they are present, but it will also open the ground, enabling the species to persist in the open habitat.

**Fisheries Biologist:** Consultation with the National Marine Fisheries Service led to the following statement from them: NMFS agrees that each project applies under the 2012 Programmatic Biological Opinion for Actions Implemented Under the Forest Service and Bureau of Land Management Programmatic Stream Crossing and Replacement Biological Assessment (2011/05875) with the condition that the Forest and Nez Perce Tribe adheres to all applicable protective measures and terms and conditions contained in the Opinion (and any conditions contained in your Corps permit). Please send post project checklists to the Boise NMFS office once work and associated monitoring are complete.

**Wildlife Biologist:** There are no expected impacts to fisher habitat. Disturbance resulting from culvert replacement activities may temporarily displace local individuals but overall effects would be minor and of short duration. No changes to the population or viability would be expected.

There are no expected impacts to gray wolf habitat. Disturbance resulting from culvert replacement activities may temporarily displace local individuals but overall effects would be minor and of short duration. No changes to the population or viability would be expected.

Western toads can be found in a wide range of habitats from meadows to forests but they are commonly associated with wet areas. Individual toads may be impacted by culvert replacement activities during the short time the project activities are taking place. This will not result in loss of population viability. Any adverse effects are not expected to have any long-term impacts on the population as a more natural functioning stream channel will allow for easier and safer travel of toads up and down the stream and improve habitat conditions. There will not be any loss of toad habitat from this project.

## **2. Floodplains, wetlands, or municipal watersheds:**

The District Hydrologist confirmed the project area is not located in, and will not affect any municipal watersheds, and he made the following comments:

Floodplains: The Project will not modify or occupy floodplains to an extent greater than already exists. As such, there will be no adverse impacts to floodplains; thereby complying with EO 11988 and FSH 1909.15, Chapter 30.3.2.

Wetlands: The Project does not propose to modify or destroy wetlands. As such, the Project will not adversely affect wetlands; thereby complying with EO 11990 and FSH 1909.15, Chapter 30.3.2.

Municipal Watersheds: The Project area is not located within a municipal watershed. As such, the Project will not adversely affect municipal watersheds; thereby complying with FSH 1909.15, Chapter 30.3.2.

This project will replace two, parallel, undersized culverts on a perennial stream with a bottomless arch. The project will not affect stream temperatures; no trees/canopy will be removed. Soil disturbance will be limited to the construction area, which is already heavily disturbed; erosion control BMPs will be in place during construction; water will be diverted

*around the construction zone during construction using a bypass channel that will handle the 2-year flow plus 2 feet of freeboard; and the channel will be slowly re-watered to reduce turbidity downstream. Replacement of the CMPs with a larger sized (minimum passage of 100-yr flood) AOP crossings will be a net benefit to aquatic resources and stream channel processes by allowing freer passage of flow.*

**3. Congressionally designated areas, such as wilderness, wilderness study areas or national recreation areas:**

The project is not located in a wilderness, wilderness study area or a national recreation area.

**4. Inventoried Roadless areas or potential wilderness areas:**

The project is not located in a potential wilderness area; therefore, the proposed action will have no effect on Roadless characteristics as identified in 36 CFR 294.

**5. Research Natural Areas:**

The proposed activities are not within or adjacent to any Research Natural Areas.

**6. American Indians and Alaska native religious or cultural sites and**

**7. Archaeological sites or historical properties or areas:** Because the a portion of the project is on BLM land, the Forest Cultural Resource Specialist consulted with the BLM Cultural Resource Specialist who made a "no sites" determination for this project. Further, BLM contacted the State Historic Preservation Officer (SHPO) who concurred with this finding. A copy of Report ID6-2013-14 is included in the record for this project.

**8. Soils:** The Soil Scientist states:

*The project is located on soils mapped as dissected mountain slopes and rolling uplands (31D38, 22A31, 24C38) with low to moderate hazards for erosion and mass wasting. There is a small area of mine spoils (10AUU) with a high erosion hazard in the project area. Surface soil is silt loam to loam over a loam to sandy loam subsoil. Soil and water BMPs will be used to control erosion and sedimentation.*

*There were no field visits to the project location for this assessment. The assessment is based on the soil mapping and hazards from the Nez Perce National Forest Soil Survey.*

**Interested and Affected Agencies, Organizations, and Persons Contacted**

On January 29, 2014, letters providing information and seeking public comment were mailed to individuals, organizations, a variety of state and local agencies, and the Nez Perce and Coeur d'Alene tribes. Additionally, a legal notice appeared in the *Lewiston Tribune* on February 7, 2014, inviting comments for 30 days from publication. Three letters were received addressing this project during the public comment period but only letters were received from agency/organizational officials but only one had a specific concern and is addressed in Appendix A. Project information has also been made available at <http://www.fs.usda.gov/nezperceclearwater> under NEPA projects.

**III. Findings Required by other Laws:**

Based on my review of the actions associated with this project, I find that the American Culvert Replacement Project is consistent with applicable Federal laws and regulations, including the standards and guidelines contained in the 1987 Nez Perce National Forest Plan, as amended,

as required by the National Forest Management Act of 1976. My decision also complies with all Federal, state or local laws or requirements for the protection of the environment and cultural resources, as follows:

**National Forest Management Act and Nez Perce National Forest Plan:** This action is consistent with the standards and guidelines contained in the 1987 Nez Perce National Forest Plan, as amended, as required by the National Forest Management Act of 1976. The National Forest Management Act (NFMA) and accompanying regulations require that several specific findings be documented at the project level. All proposals that involve vegetation manipulation of tree cover for any purpose must comply with the requirements found in 36 CFR 219.28. The proposed action complies with 36 CFR 219.28(c) by contributing to the achievement of desired conditions and ecological sustainability, and is necessary to protect multiple-use values other than timber production.

**Forest Plan Amendment 20 - PACFISH Riparian Habitat Conservation Areas (RHCA's):** All activities associated with the proposed action comply with direction regarding PACFISH (refer to the project record).

**Endangered Species Act:** A Forest Service Fish Biologist, Wildlife Biologist, and Botanist evaluated the proposed action with regard to the Endangered Species Act as documented in the Biological Assessments, Biological Evaluations, and specialist's reports, and determined this project is consistent with the Endangered Species Act.

**Clean Water Act and State Water Quality Laws:** The ID Team Hydrologist has determined that this project complies with the Clean Water Act and state water quality laws, and will protect beneficial uses.

**Clean Air Act:** This project will comply with the provisions of the Clean Air Act. Any prescribed burning associated with this project will comply with state and Federal air quality regulations. Compliance with procedures outlined in the North Idaho Smoke Management Memorandum of Agreement would result in no long term impacts to air quality. These measures protect air quality and comply with the rules, regulations, and permit procedures of the EPA and the IDEQ.

**Migratory Bird Treaty Act:** The proposed action will comply with the Migratory Bird Treaty Act. There will not be a measurable impact on neotropical migratory bird populations as a whole.

The project complies with the U.S. Fish and Wildlife Service Director's Order #131 related to the applicability of the Migratory Bird Treaty Act to Federal agencies and requirements for permits for "take." In addition, this project complies with Executive Order 13186 because the analysis meets agency obligations as defined under the January 16, 2001 Memorandum of Understanding between the Forest Service and U.S. Fish and Wildlife Service designed to complement Executive Order 13186.

**National Historic Preservation Act:** This project meets the Agency's responsibilities under the National Historic Preservation Act and is consistent with the *Programmatic Agreement between the Idaho State Historic Preservation Officer, the Advisory Council on Historic Preservation and the Region 1 National Forests in Northern Idaho Regarding the Management of Cultural Resources*.

**American Indian Treaty Rights:** The Nez Perce Tribal Government Liaison reviewed the project, and determined the proposed action will not affect Nez Perce Tribe Treaty rights or Nez Perce Tribal members' abilities to exercise those rights.

**Environmental Justice:** I assessed the proposed action and determined it will not disproportionately impact consumers, Native American Indians, women, low-income populations, other minorities or the civil rights of any American Citizen, in accordance with Executive Order 12898. No disproportionate impacts to minority or low-income populations were identified during scoping or the effects analysis.

**Prime Farm Land, Range Land, and Forest Land:** The proposed action complies with the Federal Regulations for prime land. The definition of "prime" forest land does not apply to lands within the National Forest System. The project area does not contain any prime range land or farm land. Federal lands will be managed with appropriate sensitivity to the effects on adjacent lands.

**Energy Requirements:** There are no unusual energy requirements for implementing the proposed action.

**Other Laws or Requirements:** The proposed action is consistent with all other Federal, State or local laws or requirements for the protection of the environment and cultural resources.

#### IV. Review and Appeal Opportunities, and Implementation Date

This decision is no longer subject to appeal pursuant to the U.S. Court of Appeals for the Ninth Circuit Court Order, filed March 7, 2014, in Case No. 12-16206 (DC No. 1:11-cv-00679-LJO-DLB). The project may be implemented during the timeframe specified above.

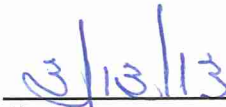
#### V. Contact Person

Questions regarding this decision should be sent to Linda S. Helm, Small NEPA Team Coordinator, c/o Nez Perce Supervisor's Office, 104 Airport Road, Grangeville, Idaho 83530 or by telephone to (208) 935-4285 or facsimile transmittal at (208) 983-4042 during business hours (M-F, excluding Federal holidays, 7:30 a.m. to 4:30 p.m., PST).

#### VI. Signature of Deciding Officer



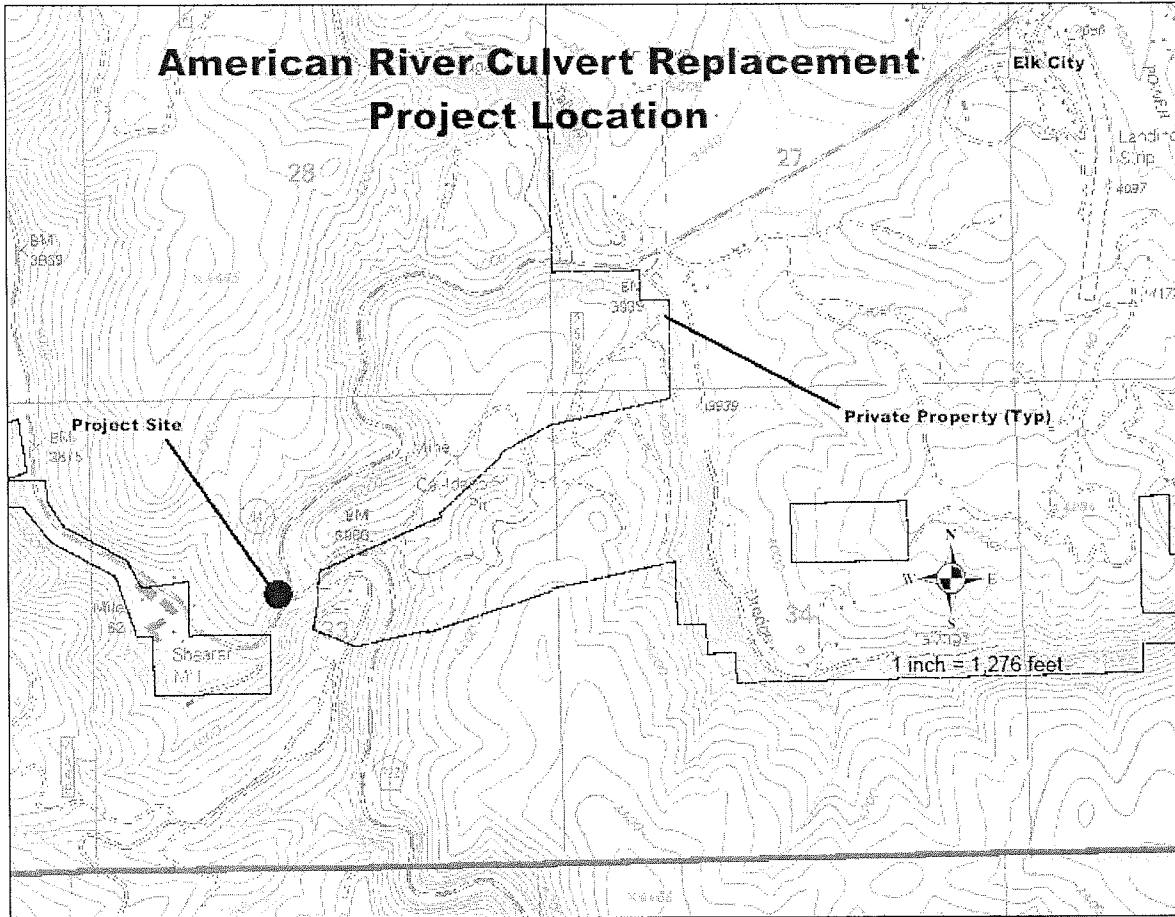
TERRY NEVIUS  
District Ranger  
Red River Ranger District



Date

cc: Christopher Wolffing, Jenifer Harris

Enclosures: map of project site, Appendix A



## Appendix A

### Response to Public Comments

On January 29, 2014, letters providing information and seeking public comment were mailed to individuals, organizations, a variety of state and local agencies, and the Nez Perce and Coeur d'Alene tribes. Additionally, a legal notice appeared in the *Lewiston Tribune* on February 7, 2014, inviting comments for 30 days from publication. Three letters were received specifically addressing this project during the public comment period but only one of these letters had a specific concern about it. This letter and our response are incorporated below.

Planning Participant	Comment	Forest Service Response
<p>Daniel D. Stewart  Watershed Monitoring Coordinator  State of Idaho - Department of  Environmental Quality  1118 F Street  Lewiston, ID 83501</p>	<p>The American River culvert replacement is contained within water body ID17060305CL052_04. This water body is included in the South Fork Clearwater River Subbasin Assessment and Total Maximum Daily Load. These activities cannot result in an increase in stream temperature or an increase in sediment delivered to these water bodies. The TMDL lists allowable load allocations for point and nonpoint sources within this water body.</p>	<p>The project will not affect stream temperatures; no trees or canopy will be removed. Soil disturbance will be limited to the construction area, which is already heavily disturbed; erosion control BMPs will be in place during construction; water will be diverted around the construction zone during construction using a bypass channel that will handle the 2-year flow plus 2 feet of freeboard; and the channel will be slowly re-watered to reduce turbidity downstream.</p>